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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/503,262

02/14/2000

Linda McMeekin

JBP-480

6305

7590

12/17/2003

Audley A Ciamporcero Jr  
Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003

EXAMINER

WALCZAK, DAVID J

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/503,262

Applicant(s)

MCMEEKIN ET AL.

Examiner

David J. Walczak

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-11,13,15,18 and 20-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-11,15,18,21,24-26 and 29-46 is/are rejected.
- 7) ☒ Claim(s) 13, 20, 22, 23, 27, 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 26
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

Claims 9 and 36-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regard to claim 9, an antecedent basis for "the perforated film" should be defined. Further in regard to claim 9, it appears that the limitations defined therein have already been defined in claim 1. In regard to claim 36, an antecedent basis for "the water soluble material" should be defined. In regard to claims 37 and 38, an antecedent basis for "the water insoluble material" should be defined.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

~~A person shall be entitled to a patent unless –~~

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 9, 11, 15, 18, 21, 24-26, 29-36, 39-41 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Scott (as cited by Applicant). In regard to claims 1, 9, and 24-26, Scott discloses a device having one side comprised of a gathered piece of three-dimensional textured film 12 (film 12 is "gathered" in that, viewing Figure 2, the flat portions of the film are "gathered" toward each other upon the formation of the

Art Unit: 3751

pouch 16) having texture variations 19 (in the form of outwardly facing protuberances) and securing means 11 for "substantially permanently" holding the gathered film together wherein the film has an open area 20 of no more than "about" 45% based on the total area of the film (see Figure 3) and wherein the device is in the form of a "cloth" having "at least about" 1.3 textured variations/cm squared. In regard to claim 3, the textured variations 19 are in the form of embossments. In regard to claim 11, the securing means 11 defines an inner substrate that is covered by the film. In regard to claim 15, the substrate 11 is a "non-sheetlike" (because of its thickness) three-dimensional body. In regard to claim 18, the device includes holding means 18. In regard to claim 21, the device is used as a personal cleaning product. In regard to claim 29, the soap in the pocket 16 is considered an "active material". In regard to claims 30 and 31, the active material is a cleanser. In regard to claim 32, the device is used as a personal cleaning product. In regard to claim 33, the active material is deposited onto the film (when placed in the pocket 16). In regard to claim 34, pocket 16 defines an enclosure for the active material. In regard to claim 35, the enclosure has walls made from a water insoluble material 12. In regard to claim 36, as the insoluble material was chosen in claim 35, claim 36 does not further limit the device. In regard to claim 39, the enclosure is refillable. In regard to claims 40, 41 and 46, the method as claimed is inherent in the operation of the device.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4-7, 10, 37, 38 and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott. In regard to claims 2, 4-7, 10, 37 and 38, although the Scott reference does not disclose the specific film material, embossment size, amount of textured variations or the amount of the open area, it is the Examiner's position that the Scott device can be designed to have any suitable material, embossment size, textured variations or open area, depending on the needs of the user, without effecting the overall operation of the device. In regard to claims 42-45, although the Scott reference does not disclose the specific type of cleanser, it is the Examiner's position that it would have been obvious to one of ordinary skill in the art at the time the invention was made that any suitable cleaning material, including those claimed, can be used in the Scott device without effecting the overall operation of the device.

### ***Allowable Subject Matter***


Claims 13, 20, 22, 23, 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 703-308-0608. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg L. Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.



David J. Walczak  
Primary Examiner  
Art Unit 3751

DJW  
12/16/03